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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/576,720	05/23/2000	John J. Burns	FEL-001P	3128

7590

06/27/2006

J M Robertson
233 South Pine Street
Spartanburg, SC 29302

EXAMINER

BEFUMO, JENNA LEIGH

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 06/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 09/576,720	Applicant(s) BURNS ET AL.	
	Examiner Jenna-Leigh Befumo	Art Unit 1771	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 April 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 25-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 25-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114 was filed in this application after a decision by the Board of Patent Appeals and Interferences, but before the filing of a Notice of Appeal to the Court of Appeals for the Federal Circuit or the commencement of a civil action. Since this application is eligible for continued examination under 37 CFR 1.114 and the fee set forth in 37 CFR 1.17(e) has been timely paid, the appeal has been withdrawn pursuant to 37 CFR 1.114 and prosecution in this application has been reopened pursuant to 37 CFR 1.114. Applicant's submission filed on April 24, 2006 has been entered.

Response to Amendment

2. The Amendment submitted on April 24, 2006, has been entered. Claims 1 – 24 have been cancelled. Claims 25, 26, and 31 have been amended. Therefore, the pending claims are 25 – 32.

3. The 35 USC 103 rejection based on Stein (6,287,407) in view of Brooks (3,683,921) is withdrawn since Stein fails to disclose that the adjacent nonwoven layers are intermingled with one another and with said adhesive layer in a substantially continuous relation across the composite structure. Thus, the rejection is withdrawn.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

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5. Claims 25 – 32 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claims contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention. The disclosure fails to explicitly teach or provide adequate support for the recitation in claim 25 and 26 that the adjacent nonwoven layers are “intermingled with one another and with said adhesive in substantially continuous relation across the composite to define mechanical entanglement between said adjacent layers across substantially the entire interface between the adjacent layers.” While disclosure teaches that the layers are mechanically bonded together by needlepunching the multiple layers, the disclosure fails to teach that the bond is a substantially continuous bond across substantially the entire interface. There is no suggestion by the disclosure that the mechanical bond between multiple layers needs to be continuous. The disclosure only recites that the adhesive layer can be lightly bonded to the nonwoven layers (page 3, line 6) and that the mechanical bonding converts the fabric to a sandwich structure and increases the overall strength of the fabric due to the fibers extending across the thickness of the layered product (page 10, lines 17 – 27). And finally, there is no reason for one of ordinary skill in the art to interpret the disclosure as teaching a continuous bond formed by mechanical intermingling of the fibers because the laminate is also bonded together by activating the adhesive layer. Thus, the limitation is considered to be new matter.

Claims 25 – 32 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claims contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the

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inventors, at the time the application was filed, had possession of the claimed invention. Claims 25 and 26 recite that the composite has a “second portion of fibers elements in each of said adjacent layers projects in extended relation into but not across a layer of adhesive between said adjacent layers.” The disclosure fails to teach that the needling is formed such that some fibers only extend into the adhesive layer and *not across* the adhesive layer. There is no teaching that the needling is controlled or modified so that the fibers will extend to separate depths of the laminate. Further, there is no teaching that some of the fibers should extend into but no across the adhesive layer. The disclosure fails to mention or discuss that this is an embodiment envisioned by the applicant at the time the application was filed. Further, the mere absence of a positive recitation is not basis for an exclusion. See *Ex parte Grasselli*, 231 USPQ 393 (Bd. App. 1983), 738 F.2d 453 (Fed. Cir. 1984). Thus, for the applicant to exclude prior art structures where all the fibers extend completely through the adhesive layer, the feature must be specifically disclosed by the specification. Therefore, the limitation is considered to be new matter.


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jenna-Leigh Befumo whose telephone number is (571) 272-1472. The examiner can normally be reached on Monday - Friday (8:00 - 5:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on (571) 272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Jenna-Leigh Befumo
June 19, 2006